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EQUAL OPPORTUNITY LEGISLATION IN JAPAN

Summary

Once again external pressure has materialized to boost the Japanese government over a domestic hurdle. This time the subject is passage of a controversial piece of legislation designed to advance the cause of working women -- the Equal Opportunity Employment bill. The government's main concern at this time is meeting the deadline for ratification of the United Nation's Convention to Eliminate All Forms of Discrimination Against Women. Japan pledged to complete this process by 1985 when the U.N. Decade for Women ends.

Outline of the Proposed Bill

The Equal Opportunity Bill sent to the Diet on May 14 represents a compromise after a long and ferocious battle between women's organizations and groups in the business community, including the influential Japan Federation of Employers' Associations (Nikkeiren). Women's groups are not satisfied with the bill, which in its current state provides no penalties for companies that violate the law, while the business community, for its part, resists any legislation that might disturb the status quo. Ginko Sato, director of International Labor Affairs for the Labor Ministry, suggests that two factors point to passage of the equal opportunity legislation: first, the impending deadline for ratification of the Convention; and second, structural changes accelerating the participation of women in the workforce. She stresses the significance of vigorous international support, which she notes greatly improves the legislation's chances, adding, "In Japan it is almost impossible to reach a consensus on such a controversial issue without outside pressure."

The legislation is designed to prohibit discrimination against women in the workplace, and calls for relaxing certain restrictions on overtime and late

night work that previously all but eliminated women from many jobs. Covered in the new law are regulations governing maternity leave, recruiting and hiring, assignment and promotion, training, benefits, mandatory retirement and discharge. The statute prescribes that recruitment and job assignments be handled so that "desirable goals will be accomplished" and prohibits discrimination in training, benefit and retirement programs.

The legislation assumes these conditions will be met with the good will of individual companies and is framed more as a guideline than a legal obligation. The regulations on overtime and holiday work would be abolished for women in managerial positions and professional work. Overtime for women working in non-manufacturing industries can be stretched from six to 12 hours a week, and restrictions on women employed on night jobs (like food processing and taxi driving) have been lifted. The Labor Ministry has said it plans to prepare specific recommendations before the law's effective date of April 1, 1986. A new "Equal Labor Opportunity Mediation Committee" is to be established to serve as the ombudsman in disputes between employees and employers.

Historical Background

Mayumi Moriyama, an upper house LDP Dietwoman and former chief of the Women's and Young Workers' Bureau, stresses that a long history of legislation preceded the U.N.'s adoption of the Convention in 1979 (see Appendix). Citing her experience as a Labor Ministry official, she says, "I had a hard time wiping out discrimination in the Japanese government. In 1975, I found discrimination against women working for the government in such jobs as air traffic controller, immigration officer, maritime safety official, etc. When I confronted male personnel officers in various government agencies for an explanation, they tried to justify these policies by explaining that there were no toilets for women in the buildings."

In addition to revised employment practices, certain other adjustments must be made if Japan is to be in compliance with the resolution. One such revision involving the question of Japanese citizenship was resolved in May of this year. Heretofore, the children of Japanese women married to non-Japanese men could not become Japanese citizens, although the offspring of Japanese men with foreign wives were eligible for citizenship. The provision, which was incompatible with the U.N. Convention stipulating that "states shall grant women equal rights with men with respect to the nationality of their children," was revoked.

Discrimination in the school curriculum in the form of mandatory home economics courses for girls is another hurdle. The U.N. document calls for "access to the same curricula" and "the elimination of any stereotyped concept of the roles of men and women in all levels and in all forms of education." Japanese feminists have been putting pressure on the schools to break the tradition of women staying at home. After some resistance, the Education Ministry agreed to establish a panel to review the curriculum. This was seen as a significant breakthrough, and last month activists from all over Japan advocating coeducation in home economics demonstrated in Tokyo to urge the

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ministry to go ahead with a revision. The subject has produced a lively debate. Writing in one of the leading newspapers, Professor Masatoshi Hara of Shizuoka University observed that "home economics should not be a mandatory course for anyone, but an elective subject in a category with other job-training skills like agriculture, accounting, electronics and data processing." Many professional women agree with this view, except of course home economics teachers.

A compromise is said to be in the making that would offer as electives both home economics and martial arts. Students would be permitted to choose either course. This concession, however, while satisfying external and internal pressures, would not substantially change the existing role stereotyping that is built into the Japanese school curriculum.

Economic Background

Japan's changing economic structure is an important factor in this discussion. Yoshio Higuchi, an assistant professor at Keio University, said in a recent Nihon Keizai Shimbun article that the shift from manufacturing to service industries has brought about a significant rise in the number of women in the workforce (Table 1). This trend favors part-time and flexible jobs, which are mostly held by women, and is ideal for married women who formerly had trouble finding jobs that accommodated their family responsibilities, he said. Since service industries adjust the number of employees to suit fluctuating demand, part-time workers, an increasing number of whom are women, are preferred.

Mr. Higuchi has analyzed the correlation between the business cycle and the rate of women's participation in the workforce by comparing statistics before and after the oil crisis. He notes that before the oil-price hikes, when Japan's economy expanded rapidly, the employment rate for women varied with the highs and lows of the business cycle but generally showed a downward curve. After the crisis, when many manufacturing industries slowed down and service industries came to lead and support the economy, the correlation changed significantly -- if it didn't exactly reverse. That is, the ratio of women in the working population remained stable even when the economy dipped sharply.

Two further developments are worth noting. First, the increase in the labor force of married women in the middle-income group was higher than in lower-income groups, contrary to their respective needs to supplement the family income (Table 2). Second, the ratio of women working part-time (less than 35 hours a week) increased dramatically (Table 3), and accounted for 20.5 percent of all female employees in 1982.

Increased life expectancy is another factor that has affected the employment structure. Ichiko Ishihara, a managing director of Takashimaya Department Store, points out that longevity and modern life-styles have led to a demand for jobs from married women who once stayed at home. Mrs. Ishihara, whose remarkable career is a model for women in the Japanese business world, says "We cannot tolerate discrimination against women in the workplace. Men should be happy with wives working in an equal situation."

Public Response

Reaction to the proposed legislation varies considerably, even among working women. Sumiko Ariizumi, a magazine editor who says she has never been a victim of discrimination, says "My experience might not be common, but I have never experienced any discrimination -- inside or outside of the company. I would prefer a loosely defined law that varies according to the job." Ms. Ariizumi does not like the idea of enforcing the law by providing penalties for violators.

Most women who have specialized skills say they do not perceive significant discrimination against them in their own offices. Yet the general attitude toward women is not favorable. A female lawyer, Teruko Konishi, criticized the bill as a version of the existing Welfare of Women Workers' Act, which was originally intended to ease the pressures of women with jobs and household responsibilities. Ms. Konishi, who is in a profession unusual for women, doubts the bill will have any impact since it is not enforceable, and would prefer to see a stronger piece of legislation. "However," she says, "the law seems to suit the reality in Japan, where so many young women quit work when they marry, and so few of them are even interested in this legislation." Surveys suggest this is a valid claim. According to an employment agency, Nihon Recruiting Center, two-thirds of Japanese women are not informed about the contents of the equal employment opportunities legislation.

Foreign observers, too, consider Japanese women somewhat responsible for the situation. Most Japanese women routinely leave work for marriage, they point out. Wingate Packard, an American editor of the English-language newspaper The Japan Times, says she is frustrated by the timid and even indifferent attitudes young Japanese women show toward their own circumstances. "They are socialized to stay at home," she observes. "Society in and out of school is responsible for 'teaching' young girls their preference to stay at home." She notes that the Japanese government offers an excellent education to all Japanese children. "If they are determined not to employ women on equal terms with men, why do they offer the girls (the same curriculum) as the boys?" she asks rhetorically.

Asako Kobayashi, a part-time computer software engineer, points out that a new law is not all that is needed to support working women: "Most of all," she told JEI, "a child-care system is vital in order to continue working after marriage. Several days a week I have to hire a baby sitter after the daycare center closes. I worry constantly about what my colleagues think when I rush home to the children."

Deliberation in the Diet

On June 26 the Diet began deliberating the Equal Opportunity Law. Although the government is very eager to secure the law's passage, success depends on the resolution of various obstacles. First, the Japan Socialist Party (JSP) and other opposition parties, backed by feminist and labor organizations, oppose the statute and are preparing to submit their own version. Strong objections have been raised to relaxing the ban on late-night and overtime work from women who cite this as a necessary refuge from the workaholic mentality.

Second, the committee handling the law is simultaneously deliberating the highly controversial medical insurance reform act. It has been suggested that because the medical insurance bill is a top priority for the Liberal Democratic Party (LDP), there is a chance that a political maneuver would be worked out so that the LDP would slow its campaign for women's equality (making its defeat appear to be the opposition's fault), in order to pass the unpopular medical insurance act. The reform of this program is said to be crucial for Prime Minister Yasuhiro Nakasone's re-election prospects.

LDP Dietman and member of the Social and Labor Affairs Committee Bunmei Ibuki is pessimistic about the equal opportunity legislation's chances in the face of the opposition parties' demands for compulsory enforcement. With only one month remaining before the Diet session ends on August 8, the balance between those elements supporting the new law and the government's difficulties in the Diet suggests that the outcome is still uncertain.

Moves Toward Equal Opportunity

Whether the new law passes or not, a certain momentum can already be seen. Labor Ministry data indicate the direction of change:

- In 1977, 91.5 percent of Japanese companies excluded women from certain job categories. In 1981, this number had fallen to 83.4 percent.

- In 1977, only 29.7 percent of all firms reported identical training programs for men and women. In 1981, 40 percent said they provided women with the same training as men; 39.3 percent had dual training programs; and 20.7 percent gave women no training.

- A large 52.3 percent of firms did not promote women in 1977 -- by 1981, this group had contracted slightly to 45.1 percent

- While 23.1 percent of all firms required women to retire at a younger age than men in 1977, the number had contracted to 18.5 percent by 1983.

Ironically, though, the women who are most enthusiastic about equal opportunity legislation profoundly disagree with the present version of the bill and are its most vehement detractors. This group is campaigning for an initiative that penalizes employers that discriminate against women, and that retains the existing regulations restricting overtime work for women. Kazue Suzuki, an editor of the Reader's Digest, explained to JEI: "I am afraid that the bill in the Diet might force women to take relatively inferior part-time jobs." Professor Higuchi concurred with Ms. Suzuki when he said, "Equal opportunity in employment should be considered only in the context of wide-ranging improvements in the employment system. Even though the new legislation seems to focus on talented or specialized women, we should not forget those increasing part-time employees who work under inferior conditions which are caused by their status. They are considered part-time, but most of

them work far longer than the 35 hours a week which the government categorizes as 'part-time'."

Another Reader's Digest editor, Mami Fukae, who is a member of a feminist group, contends that "We don't need an unsatisfactory law. If the defects of the bill sent to the Diet can't be corrected, then it should be killed. In this case the Japanese government and business leaders would be open to more severe external criticism than if Japan were to pass cosmetic legislation and succeed in meeting the deadline to ratify the U.N. Convention." Ironically, neither the United States nor Great Britain have ratified the Convention at this time.

Many women are skeptical of the current bill and at the same time optimistic about the momentum that it has generated. Ms. Ishihaya of Takashimaya also is quite positive about the progress in women's employment in spite of some reluctance from the business establishment. "More than half of Japan's population was born after World War II," she said. "The traditional establishments will become less and less powerful as the economic structure changes."

Even men who consider the legislation unnecessary stress the importance of providing equal employment opportunities for women. Hiroshi Kitamura, director of labor affairs for Nikkeiren, told JEI, "I personally respect (the concept). My point is that it should not be introduced so rapidly as to cause friction in the employment system. That is why I have opposed drafting strong enforcement into the legislation." Although he is opposed to the bill, Mr. Kitamura has been speaking to business executives about the measure's legal ramifications, assuming that the trend toward equalization is irreversible and that the Diet will pass it sooner or later. He also expects wide-ranging changes in Japan's labor structure and less and less adherence to the "lifetime employment" system.

Often these days readers of Japanese newspapers see comics that describe various incidents caused by the rise of women in power. Asahi Shimbun cartoonist Sato Sanpei appears about once a week with his character, an ordinary salaried man, Fuji Santaro, who has a hard time with his female boss. These comics reflect the increasing concern of Japanese men in the face of growing resistance from women who used to obediently serve tea at least three times a day and go out to buy cigarettes with a smile. And they find more and more severe competition from women, who previously were not expected to hold ambitions for positions higher in corporate status than all those Santaros.

But the increasing numbers of working women in Japan demand more rational employment practices and explicit assessments of each individual's abilities. This challenge requires that Japan's traditional seniority system and lifetime employment commitment be altered.

For further information, contact Hiroshi Ando.

The views expressed in this report are those of the author and do not necessarily reflect the views of the Japan Economic Institute.

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APPENDIX

1947 -- Japan enacted the Labor Standards Law prohibiting employers from discriminating against women or paying women lower wages than men.

1963 -- The U.S. Equal Wage Law was enacted.

1964 -- The U.S. Civil Rights Act provided equal employment opportunities for men and women.

1967 -- The General Assembly declared the Abolition of Discrimination Against Women.

1969 -- Japan set up a Labor Ministry advisory group to review the Labor Standards Law.

1970 -- Great Britain enacted the Equal Wage Act.

1975 -- Great Britain passed the Act of Prohibition Against Sexual Discrimination.

1978 -- Legislation prohibiting discrimination against pregnant women passed the U.S. Congress.

1978 -- Japan's Labor Ministry issued a Recommendation for Equal Opportunity for Women in Employemnt.

1980 -- Japan signed the U.N. Convention for the Decade of Women in Copenhagen. A task force of 10 agencies on women's issues was named to complete all the legal adjustments necessary for Japan to ratify the Convention before 1985 when the U.N. decade ends.

1981 -- The Convention ratified by 20 nations.

1983 -- Labor Ministry issued report advising the abolition of discrimination against women in the workforce.

1984 -- "Equal Opportunity in Employment for Women" bill submitted to Diet.

Table 1: Women Employees by Industry, 1967 and 1982

Industry	Number		Distribution		Share of Total Employees	
	1967	1982	1967	1982	1967	1982
Agriculture, Forestry and Fisheries	180,000	120,000	1.8%	0.8%	45.6%	47.6%
Mining	20,000	10,000	0.2	0.1	8.0	10.0
Construction	440,000	600,000	4.4	4.2	15.0	14.2
Manufacturing	3,620,000	3,920,000	36.0	27.7	34.2	34.1
Wholesale and Retail Trade	2,210,000	3,740,000	22.0	26.4	41.0	43.0
Finance, Insurance and Real Estate	570,000	890,000	5.7	6.3	44.2	47.1
Transport, Communications and Utilities	370,000	430,000	3.7	3.0	12.0	23.6
Services	2,390,000	4,120,000	23.8	29.1	48.3	48.6
Government	250,000	330,000	2.5	2.3	15.9	16.9
Total	10,050,000	14,160,000	100.0	100.0	32.7	34.6

Source: Prime Minister's Office, Statistics Bureau, Annual Report on the Labour Force Survey

Table 2: Employment Among Married Women, by Income Group*

	Share of Total 1979	Share of Total 1982	Increase 1979-82
Class I	49.4%	53.0%	3.6%
Class II	45.2	49.9	4.7
Class III	40.4	45.8	5.4
Class IV	37.9	45.1	7.2
Class V	30.7	34.8	4.1

*Households (with employed workers) are classified from I to V. The bottom one-fifth of households by earnings is Class I. Class V has the highest income.

Source: Prime Minister's Office, Statistics Bureau, Basic Research on Employment Structure.

Table 3: Ratio of Part-Time Employees to Total Employed Women

	Total Number of Employed Women (millions)	Ratio of Part-Time Workers
1960	6.4	8.9%
1965	8.5	9.6
1970	10.7	12.2
1975	11.3	17.4
1980	13.2	19.3
1982	13.9	20.5

Source: Prime Minister's Office, Statistics Bureau, Labor Force Survey.

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